

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ROBBYJOE V. YABUT,

Case No.: 2:24-cv-01088-APG-EJY

Plaintiff

Order

v.

GARY S. MCLAUGHLIN, et al.,

Defendants

Plaintiff Robbyjoe V. Yabut brings this civil-rights action under 42 U.S.C. § 1983 to redress constitutional violations that he claims he suffered while incarcerated at Clark County Detention Center. ECF No. 1-1. On December 23, 2024, I ordered Yabut to file an amended complaint by January 24, 2025. ECF No. 4. I warned Yabut that the action could be dismissed if he failed to file an amended complaint by that deadline. *Id.* at 6. That deadline expired, and Yabut did not file an amended complaint, move for an extension, or otherwise respond. Furthermore, the order came back as undeliverable to the last address that Yabut provided to the court. ECF No. 6. I note that the court’s advisory letter, which was sent to Yabut after he initiated this action, informed him that he should immediately file a notification with the court of any change of address. ECF No. 2 at 1.

I. Discussion

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action based on a party’s failure to obey a court order or comply with local rules. *See*

1 *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to comply
2 with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S.*
3 *Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court
4 order). In determining whether to dismiss an action on one of these grounds, I must consider:
5 (1) the public’s interest in expeditious resolution of litigation; (2) the court’s need to manage its
6 docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of
7 cases on their merits; and (5) the availability of less drastic alternatives. *See In re*
8 *Phenylpropanolamine Prod. Liab. Litig.*, 460 F.3d 1217, 1226 (9th Cir. 2006) (quoting *Malone*,
9 833 F.2d at 130).

10 The first two factors, the public’s interest in expeditiously resolving this litigation and the
11 court’s interest in managing its docket, weigh in favor of dismissal of Yabut’s claims. The third
12 factor, risk of prejudice to defendants, also weighs in favor of dismissal because a presumption
13 of injury arises from the occurrence of unreasonable delay in filing a pleading ordered by the
14 court or prosecuting an action. *See Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976). The
15 fourth factor—the public policy favoring disposition of cases on their merits—is greatly
16 outweighed by the factors favoring dismissal.

17 The fifth factor requires me to consider whether less drastic alternatives can be used to
18 correct the party’s failure that brought about the court’s need to consider dismissal. *See Yourish*
19 *v. Cal. Amplifier*, 191 F.3d 983, 992 (9th Cir. 1999) (explaining that considering less drastic
20 alternatives *before* the party has disobeyed a court order does not satisfy this factor); *accord*
21 *Pagtalunan v. Galaza*, 291 F.3d 639, 643 & n.4 (9th Cir. 2002) (explaining that “the persuasive
22 force of” earlier Ninth Circuit cases that “implicitly accepted pursuit of less drastic alternatives
23 prior to disobedience of the court’s order as satisfying this element[,]” *i.e.*, like the “initial

1 granting of leave to amend coupled with the warning of dismissal for failure to comply[.]” have
2 been “eroded” by *Yourish*). Courts “need not exhaust every sanction short of dismissal before
3 finally dismissing a case, but must explore possible and meaningful alternatives.” *Henderson v.*
4 *Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986). Because this action cannot realistically proceed
5 until and unless Yabut files an amended complaint, the only alternative is to enter a second order
6 setting another deadline. But the reality of repeating an ignored order is that it often only delays
7 the inevitable and squanders the court’s finite resources. The circumstances here do not indicate
8 that this case will be an exception. Because Yabut has not filed his current address with the
9 court, the odds of him even receiving a second order setting another deadline is low. So the fifth
10 factor favors dismissal.

11 **II. Conclusion**

12 Having thoroughly considered these dismissal factors, I find that they weigh in favor of
13 dismissal. I THEREFORE ORDER that this action is dismissed without prejudice based on
14 Yabut’s failure to file an amended complaint in compliance with my December 23, 2024, order.
15 The Clerk of Court is directed to enter judgment accordingly and close this case. No other
16 documents may be filed in this now-closed case. If Yabut wishes to pursue his claims, he must
17 file a complaint in a new case.

18 I FURTHER ORDER that Yabut’s application to proceed *in forma pauperis* (ECF No. 1)
19 is DENIED as moot.

20
21 Dated: February 10, 2025



22 Andrew P. Gordon
23 Chief United States District Judge